

ALLIANCE FOR CONSTITUTIONAL SEX OFFENSE LAWS
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June 3, 2020

Via U.S. Mail and E-mail (Sarah.Fleischer-Ihn@jud.ca.gov)

Hon. J. Richard Couzens, Chair
Criminal Law Advisory Committee
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Re: Invitation to Comment SPR20-16
Proposed Forms CR-415, CR-415-INFO, CR-416, CR-417, and CR-418

Dear Judge Couzens and Judicial Council Members:

The Alliance for Constitutional Sex Offense Laws, Inc. (“ACSOL”) respectfully submits these comments to the draft of proposed Forms CR-415, CR-415-INFO, CR-416, CR-417, and CR-418 (hereinafter collectively, the “Forms”), which concern petitions for removal from the California sex offender registry pursuant to Penal Code section 290.5, as amended by SB 384 (Stats. 2017, ch. 541).

ACSOL is a non-profit organization dedicated to protecting the Constitution by restoring the civil rights of persons required to register as sex offenders (“Registrants”) and their families. Our organization, as well as the more than 100,000 families we represent, will be directly affected by the petitioning process created by the SB 384, and we thank you for the opportunity to comment on the drafts of these important Forms.

Page 5 of the Invitation to Comment specifically asks: “Are the forms and information sheet written in a way that would be understandable to most self-represented court users?” In an effort to provide the Judicial Counsel with this critical perspective, ACSOL consulted with many of the Registrants who will petition the courts using these Forms. The following comments are informed by their review and feedback.

- 1. Per Penal Code § 290.005, Registrants with convictions in federal, military, and other non-California courts are eligible to petition for removal from the registry, warranting a revision to Form CR-415-INFO, § 2, bullet 1.**

Form CR-415-INFO, Section 2, bullet 1, states that Registrants are eligible to petition if they “are required to register as a sex offender as a result of a California state court conviction.” This statement implies that Registrants convicted in federal, military, or other courts outside California (hereinafter, “foreign convictions”) are ineligible to Petition. However, for the reasons described immediately below, Registrants with foreign convictions are eligible to

petition for removal from the registry on the same terms as persons convicted in California courts. Specifically, Penal Code section 290.005 requires persons with foreign convictions to “register in accordance with the Act.” The full text of Penal Code section 290.005 is as follows:

The following persons shall register in accordance with the Act: . . . (a) [] any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, based on the elements of the convicted offense or facts admitted by the person or found true by the trier of fact or stipulated facts in the record of military proceedings, would have been punishable as one or more of the offenses described in subdivision (c) of Section 290[.]

Registrants with foreign convictions who “register in accordance with the Act” are assigned a tier pursuant to the terms of Penal Code section 290(d), which provides that “A person described in subdivision (c), or who is otherwise required to register pursuant to the Act shall register for 10 years, 20 years, or life, . . . as follows . . .” (Cal. Penal Code § 290(d), emphasis added. See also *id.*, subd. (e) [discussing tier assignments of persons “required to register pursuant to Section 290.005,” *i.e.*, persons with foreign convictions].)

Thus, because Registrants with foreign convictions are required to “register in accordance with the Act,” and are thereafter assigned a tier on the same terms as Registrants convicted under California law, Registrants with foreign convictions are entitled to petition for removal pursuant to Penal Code section 290.5(a), which states that “A person who is required to register pursuant to Section 290 and who is a tier one or tier two offender may file a petition in the superior court in the county in which he or she is registered for termination from the sex offender registry at the expiration of his or her mandated minimum registration period.” (Cal. Penal Code § 290(a).)

The fact that Registrants with foreign convictions are eligible to petition for removal on the same terms as persons with convictions in California courts is confirmed by a publication by the Department of Justice, California Justice Information Services division, entitled “Frequently Asked Questions – California Tiered Sex Offender Registration (Senate Bill 384) For Registrants,” attached hereto as Exhibit A. That document explains that Registrants with foreign convictions are eligible to petition for removal, as follows:

If the CA DOJ determines that their non-California conviction is equivalent to a registrable offense listed in Penal Code section 290(c), they will be required to meet the mandatory minimum registration requirements for the applicable tier for that offense before petitioning for termination from the requirement to register as a sex offender in California.

(Exh. A, at p. 4, emphasis added.)

Accordingly, ACSOL suggests the following revision to Form CR-415-INFO:

| Form number and section/location | Statement at issue | Proposed revision |
|----------------------------------|--|---|
| CR-415-INFO, § 2, bullet 1 | Eligibility requirement which states: “you are required to register as a sex offender as a result of a California state court conviction.” | “You are required to register as a sex offender <u>under California Penal Code section 290, et seq.</u> ” |

2. Clarification that the requirement to serve the petition and proof of current registration upon law enforcement and the district attorney in the “county of conviction” applies only to Registrants convicted in California courts.

Forms CR-415-INFO, CR-415, and CR-416 indicate or imply that Registrants with foreign convictions are obligated to serve the petition and proof of current registration upon a law enforcement agency and prosecutorial agency in the non-California jurisdiction where they were convicted. However, Penal Code section 290.5(a)(2) requires service upon a law enforcement agency and District Attorney in the county of conviction only if the county of conviction is a California county, and that California county is different from the county in which the petitioner is currently registered. Penal Code section 290.5(a)(2) does not require Registrants convicted in federal, military, or other non-California courts to notify any law enforcement agency or prosecutorial agency in those foreign jurisdictions. To avoid confusion, ACSOL respectfully suggests revisions of the type proposed below:

| Form number and section/location | Statement at issue | Proposed revision |
|----------------------------------|----------------------------|---|
| CR-415-INFO, § 7 | None (general suggestion). | Consider adding affirmative statement that petitioners are not required to serve the petition and proof of current registration on any law enforcement agency or prosecutorial agency in the jurisdiction of conviction if they were convicted in a federal, military, or other non-California court. |

| Form number and section/location | Statement at issue | Proposed revision |
|----------------------------------|--|---|
| CR-415-INFO, § 7 | “If your registrable offense is from a different county than the one you register in, the petition and current registration must be delivered to the law enforcement agency and the district attorney of the county of conviction of the registrable offense.” | “ <u>If you were convicted in a California county court</u> , and if your registrable offense is from a different county than the one you register in, the petition and current registration must be delivered to the law enforcement agency and the district attorney of the county of conviction of the registrable offense.” |
| CR-415, § 1 | Request to identify “The county or counties where petitioner was convicted of an offense requiring registration.” | “ <u>Specify name of court in which petitioner was convicted (i.e., specific California county court, federal district court, military court, or other state court, etc.)</u> ” |
| CR-415, § 9 | Requiring statement re: service upon law enforcement and the district attorney in the “county of conviction” | Consider replacing the parenthetical “(county of conviction)” following “District attorney” and “Law enforcement” with “ <u>(county of conviction, if convicted in a California court, and county of conviction is different from county in which petitioner is currently registered)</u> ” |
| CR-416, § 3 | Check boxes for “Law enforcement agency (county of conviction)” and “District attorney’s office (county of conviction).” | Consider replacing the parenthetical “(county of conviction)” following “Law enforcement agency” and “District attorney’s office” with “ <u>(county of conviction, if convicted in a California court, and county of conviction is different from county in which petitioner is currently registered)</u> ” |

3. **Clarify that: (a) petitions by persons who meet the eligibility requirements of Penal Code § 290.5(a) will be granted as a matter of right if no hearing is requested; and (b) petitioners should not submit evidence of rehabilitation with petition.**

Feedback obtained by ACSOL confirms that some Registrants mistakenly believe that proof of rehabilitation or other evidence in support of the petition must be filed with Form CR-415. This is likely because some Registrants do not understand that, pursuant to Penal Code section 290.5(a)(2), granting of the petition is mandatory if service of the petition is properly made, if the eligibility requirements of Penal Code section 290.5(a)(2) are satisfied, and if the District Attorney in the county where the petition is filed does not request a hearing. (See Cal Penal

Code § 290.5(a)(2) [“If no hearing is requested, the petition for termination *shall* be granted” (emphasis added)].)

For this same reason, and pursuant to the process outlined in Penal Code section 290.5(a), Registrants need only provide evidence of rehabilitation at a hearing, if a hearing is requested and held. However, because the Forms do not indicate that eligible petitions can be granted as a matter of right without this evidence, Registrants may be tempted to attach potentially voluminous, extraneous material to the Petition, unnecessarily burdening the courts and District Attorneys. To avoid this, ACSOL suggests revising Form CR-415-INFO to confirm that granting of the petition is mandatory if the requirements of Penal Code section 290.5(a) are satisfied, and no hearing is requested. In addition, Form 415-INFO could also confirm that evidence of rehabilitation must not be submitted with the petition. Some logical places for these additions are Sections 1 and 8 of Form CR-415-INFO (“Time frame for court’s decision” and “Hearing”). The Judicial Council may also consider adding the clarification to Section 1 of Form CR-415-INFO (“General Information”) so that Registrants can read the entire petition with this information in mind.

4. Clarity regarding the precise documents that qualify as “proof of the person’s current registration as a sex offender” to be submitted with the petition

Penal Code section 290.5(a)(1) states that “The petition shall contain proof of the person’s current registration as a sex offender.” This requirement is referenced in several locations throughout the Forms. However, in two locations, Form CR-415-INFO uses the phrase “proof that you are current with your registration” instead of “proof of current registration.” (See Sections 6, bullet 1; and Section 7.) The difference in language could imply that the petitioner must submit two separate items, that is, proof that the petitioner is “currently registered,” as well as separate proof that the petitioner is “current with his/her registration.” This risk of confusion is especially acute in Section 6 of Form CR-415-INFO because the two different phrases are used in neighboring bullet points (1 and 2) when describing the process of filing the petition. To avoid this risk of confusion, and to uniformly employ the language used in Penal Code section 290.5, ACSOL suggests replacing the phrase “proof that you are current with your registration” with “proof of current registration” in both Section 6 and Section 7 of Form CR-415-INFO.

Relatedly, Registrants surveyed by ACSOL expressed confusion about the precise documents that qualify as “proof of current registration” for the purposes of the petition. If appropriate, the Forms could confirm that “proof of current registration” includes the DOJ Form CJIS 8102S, “Sex Offender Registration Change of Address / Annual or Other Update,” which all Registrants

fill out when they register, as well as any other form, cards, or confirmatory documents created and provided by individual registering agencies as evidence of current registration.

5. Clarify when the minimum registration period begins for petitioners who were not committed to terms of imprisonment for their offense.

Section 3 of Form CR-415-INFO explains how the length of a Registrant’s registration requirement will be calculated, for the purpose of determining when each Registrant is eligible to petition for removal. For example, Section 3, bullet 1, of Form CR-415-INFO states that “Your minimum required registration period begins on the date you were released from imprisonment, placement, or commitment upon being convicted of a registrable offense.” However, that explanation covers only persons who were committed to serve terms of incarceration for their offense, and omits guidance for persons who were placed on supervision with non-custodial dispositions. Registrants who served only terms of supervision are expected to constitute a large percentage of persons eligible to petition for removal from the registry, particularly those assigned to Tier 1. Pursuant to Penal Code section 290(d), the registration period for Registrants who were placed on supervision with non-custodial dispositions begins to run on the date they were “release[d] on probation or other supervision.” To provide guidance to persons placed on supervision only, ACSOL suggests revising Section 3 of Form CR-415-INFO to explain that the minimum registration period for such person begins to run on the date they began supervision.

6. Consider providing additional detail regarding the “Time frame for court’s decision” on the petition in Section 8 of Form CR-415-INFO

Section 8 of Form CR-415-INFO describes the “time frame for the court’s decision” on the petition by stating that “the court will not make a decision until it hears from the law enforcement agency and the prosecuting agency. This may take four months or longer.” To reduce the number of potential inquiries to courts by Registrants who are waiting for a decision on their petition, perhaps Section 8 of Form CR-415-INFO could be expanded to include a comprehensive summary of the timeline and deadlines spelled out in Penal Code section 290.5(a)(2), including the fact that the granting of the petition is mandatory if the petitioner is eligible and no hearing is requested by the District Attorney in the county where the petition is filed.

7. Addition of blank line for “reasons” in Sections 4(a) and 4(b) of Form CR-418

Section 4 of Form CR-418 concerns the court’s denial of a petition based upon a finding that community safety would be significantly enhanced by the petitioner’s continued registration. Section 4(a) provides a check box to indicate the denial of a petition brought under Penal Code

section 290.5(a)(1) [*i.e.*, “generic” Tier 1 and Tier 2 Registrants], along with a blank line for the court to describe its findings in connection with that denial.

In contrast, Sections 4(b) and 4(c) provide a check box to indicate the denial of a petition brought under the provisions of Penal Code section 290.5(b)(1) [*i.e.*, Tier 2 Registrant petitioning after 10 years] and Penal Code section 290.5(b)(3) [*i.e.*, Registrant placed on Tier 3 based solely on risk level], but do not provide blank lines for the court to describe its findings in connection with those denials. The addition of a blank line similar to that in Section 4(a) to Sections 4(b) and 4(c) of Form CR-418 would allow the court to describe its reasons for the denial, as well as provide guidance to petitioners when preparing a subsequent petition.

8. Minor points of clarification raised by Registrants

Finally, the following suggestions address points of clarification raised by Registrants regarding various parts of the Forms:

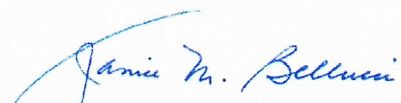
- a. Some Registrants did not understand that Form CR-415 is the mandatory form for petitions for removal, and wondered if they could submit their own “custom” petitions instead of using Form CR-145. Adding a statement to the introductory sections of Forms CR-415 and CR-415-INFO would help ensure that petitioners use the correct form, omit extraneous information, and include all necessary information.
- b. Section 1(b) of Form CR-415 asks the petitioner to provide “Attorney Information (if applicable).” Some Registrants interpreted this to seek information about their defense attorney in the underlying criminal case, rather than the attorney assisting with the preparation of the petition (if any).
- c. Some Registrants had difficulty reading Forms CR-415 and CR-415-INFO together. This created confusion about when and where to serve copies of Form CR-416, *Acknowledgment of Receipt by Law Enforcement/District Attorney*, along with copies of the petition and proof of current registration. Although the requirement to serve Form CR-416 is mentioned at the beginning of the petition itself (Form CR-415), the requirement to serve Form CR-416 is nowhere mentioned in Form CR-415-INFO, which contains the “information” that petitioners will consult to determine how the petition should be served. Perhaps Section 7 of Form CR-415-INFO could remind petitioners that they must also serve Form CR-416.


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- d. Section 4, bullet 1 of Form CR-415-INFO states that, for Tier 1 and Tier 2 Registrants, one of the criteria for eligibility to petition is that “you are not the subject of pending criminal charges.” ACSOL suggest revising this statement to conform with Penal Code section 290.5(a)(2), which states that the only “pending criminal charges” that will disqualify a petition are “pending charges . . . which could extend the time to complete the registration requirements of the tier or change the person’s tier status,” *i.e.*, pending charges for failure to register as a sex offender, or a new offense that would itself require registration. (See Cal. Penal Code § 290(e).)
- e. Section 2(c) of Form CR-417 and Section 3 of Form CR-418 provide check boxes for some, but not all, of the grounds on which the petition could be denied. ACSOL suggests adding check boxes that correspond to the other grounds for denial, such as “required proof of registration is missing from the petition.”

In conclusion, ACSOL commends and thanks the Judicial Council for its obvious care and attention to detail in creating these important Forms. ACSOL hopes that these comments, which are based upon the feedback of current Registrants, will assist the Judicial Council in completing Forms that will provide a just and efficient petitioning process.

Respectfully submitted,


Attorney Janice M. Bellucci
Executive Director


Attorney Chance X. Oberstein
President

Attachment

ATTACHMENT 1



CALIFORNIA DEPARTMENT OF JUSTICE CALIFORNIA JUSTICE INFORMATION SERVICES SEX OFFENDER REGISTRY



Frequently Asked Questions

California Tiered Sex Offender Registration (Senate Bill 384) For Registrants

The California Department of Justice (CA DOJ) Sex Offender Registry has developed the following frequently asked questions in reference to Senate Bill (SB) 384. The information provided below is general information and is not intended as legal advice.

NOTE: The CA DOJ cannot provide legal advice.

What is SB 384?

SB 384 will transition California's lifetime sex offender registration schema to a tier-based schema. SB 384 will establish three tiers of registration for adult registrants for periods of 10 years, 20 years, and life, and two tiers of registration for juvenile registrants for periods of 5 years and 10 years. This new law requires the registrant to petition the superior court or juvenile court for termination of their sex offender registration requirement at the expiration of their mandated minimum registration period. Based on criteria listed in SB 384, the court will either grant or deny the petition.

IMPORTANT DATES

Beginning on January 1, 2021, the CA DOJ will designate tiers for registrants.

Beginning on July 1, 2021, registrants who meet the mandated minimum requirements may petition for termination of their sex offender registration requirement in the superior court or juvenile court in the county in which they reside.

Beginning on January 1, 2022, registrants will be displayed on the Megan's Law website pursuant to Penal Code section 290.46 as amended under SB 384.

When does SB 384 take effect?

The new tier-based sex offender registration schema takes effect on January 1, 2021.

On or after July 1, 2021, tier one and tier two registrants who meet mandatory minimum requirements as listed in SB 384 may petition the superior court or juvenile court in their county of residence for termination of their California sex offender registration requirement. On or before January 1, 2022, the CA DOJ shall make information available to the public via the Megan's Law website in accordance with SB 384.

The current lifetime sex offender registration schema remains in effect until December 31, 2020.



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Tiering

How are the tiers determined?

Tiers are designated in accordance with the criteria specified in Penal Code sections 290 through 290.024, et seq., the Sex Offender Registration Act, as amended under SB 384, which include registrable conviction(s) or adjudication(s) from California and non-California jurisdictions, risk assessment scores and levels, and other criteria.

What are the mandatory minimum registration periods for individuals who were convicted of their registrable offenses in superior court?

Tier One: 10 years

Tier Two: 20 years

Tier Three: Lifetime

What are the mandatory minimum registration periods for individuals who were adjudicated of their registrable offenses in juvenile court?

Tier One: 5 years

Tier Two: 10 years

What is considered when determining whether I have met my mandatory minimum registration period?

Pursuant to Penal Code section 290(e) as added by SB 384, "the minimum time period for the completion of the required registration period in tier one or two commences on the date of release from incarceration, placement, or commitment, including any related civil commitment on the registrable offense. The minimum time for the completion of the required registration period for a designated tier is tolled during any period of subsequent incarceration, placement, or commitment, including any subsequent civil commitment, except that arrests not resulting in conviction, adjudication, or revocation of probation or parole shall not toll the required registration period. The minimum time period shall be extended by one year for each misdemeanor conviction of failing to register under the Sex Offender Registration Act (the Act), and by three years for each felony conviction of failing to register under the Act, without regard to the actual time served in custody for the conviction. If a registrant is subsequently convicted of another offense requiring registration pursuant to the Act, a new minimum time period for the completion of the registration requirement for the applicable tier shall commence upon that person's release from incarceration, placement, or commitment, including any related civil commitment. If the subsequent conviction requiring registration pursuant to the Act occurs prior to an order to terminate the registrant from the registry after completion of a tier associated with the first conviction for a registrable offense, the applicable tier shall be the highest tier associated with the convictions."



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Who determines my tier designation?

Pursuant to Penal Code section 290.006 as amended under SB 384, on or after January 1, 2021, the court shall determine the tier designations for individuals ordered by the court to register. Registrants who are court-ordered to register will be designated as tier one unless the court finds the person should register as a tier two or tier three registrant and states on the record the reasons for its finding. An individual is court-ordered to register pursuant to Penal Code section 290.006 when an individual is convicted of an offense not specifically included in Penal Code section 290(c) and the court makes a finding that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.

The CA DOJ will designate the tiers of all other registrants.

Will I be notified of my tier designation?

Registrants may request their local registering agencies to provide them with their tier notification letters after January 1, 2021.

What if I disagree with my tier designation?

Registrants who feel they have been designated as the wrong tier as specified in the Act as amended under SB 384 should consult with the public defender's office or a private attorney.

What tier will I be in if I have a non-California registrable sex offense conviction (out-of-state, federal, military)?

Pursuant to Penal Code section 290, subdivision (d)(4), as added by SB 384, "a person who is required to register pursuant to Section 290.005 shall be placed in the appropriate tier if the offense is assessed as equivalent to a California registerable offense described in subdivision (c). If the person's requirement to register pursuant to Section 290.005 is based solely on the requirement of registration in another jurisdiction, and there is no equivalent California registerable offense, the person shall be subject to registration as a tier two registrant, except that the person is subject to registration as a tier three registrant if one of the following applies:

- (i) The person's risk level on the static risk assessment instrument (SARATSO), pursuant to Section 290.06, is well above average risk at the time of release on the index sex offense into the community, as defined in the Coding Rules for that instrument.
- (ii) The person was subsequently convicted in a separate proceeding of an offense substantially similar to an offense listed in subdivision (c) which is also substantially similar to an offense described in subdivision (c) of Section 667.5, or is substantially similar to Section 269 or 288.7.
- (iii) The person has ever been committed to a state mental hospital or mental health facility in a proceeding substantially similar to civil commitment as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code."



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If I was convicted in another state/jurisdiction and I am not required to register as a sex offender in that jurisdiction (out-of-state, federal, military), am I still required to register in California?

If a registrant has a non-California conviction for which they are no longer required to register in the state of conviction, they may still be required to register in California. If the CA DOJ determines that their non-California conviction is equivalent to a registrable offense listed in Penal Code section 290(c), they will be required to meet the mandatory minimum registration requirements for the applicable tier for that offense before petitioning for termination from the requirement to register as a sex offender in California.

What if the CA DOJ is unable to determine my tier by January 1, 2021?

A registrant will be placed in a tier-to-be-determined category if their appropriate tier designation cannot be immediately ascertained. An individual placed in this tier-to-be-determined category shall continue to register in accordance with the Act. The individual shall be given credit for any period for which they register towards their mandated minimum registration period.

The CA DOJ shall ascertain an individual's appropriate tier designation within 24 months of their placement in the tier-to-be-determined category. A registrant is ineligible to petition for termination of their sex offender registration requirement in California while they are placed in a tier-to-be-determined status.

If my requirement to register as a sex offender in California is terminated and I subsequently move out of the state, am I required to register in my new state of residence?

Each state/jurisdiction has their own sex offender registration requirements; therefore, the CA DOJ cannot confirm a registrant's requirement to register as a sex offender in another state/jurisdiction. Registrants should contact the sex offender registry for the appropriate state/jurisdiction for additional information about registration requirements in that state/jurisdiction.

If I believe I already meet the mandatory minimum registration requirements as included in SB 384, do I still need to register?

Yes. Registrants must continue to register as sex offenders in accordance with the Act. After July 1, 2021, specified registrants may petition the courts for termination of the requirement to register as a sex offender in accordance with SB 384.

However, registrants are required to continue registering in accordance with the Act unless and until a court grants a petition for termination of sex offender registration requirements in California.

Failure to continue registering in accordance with the Act may make you subject to prosecution for failure to register offenses.

Megan's Law Website

When will I be posted on the Megan's Law website pursuant to SB 384?

Beginning January 1, 2022, the Megan's Law website will reflect changes pursuant to SB 384. These changes include the elimination of certain exclusion criteria.



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Who will be posted on the website?

Not all registrants will be posted on the public website. Penal Code section 290.46 as amended under SB 384 provides the criteria for individuals to be posted to the Megan's Law website.

Will the exclusion criteria change for removal from the Megan's Law website?

Yes. Pursuant to Penal Code section 290.46(d) as amended under SB 384, only registrants who meet the following requirements will be eligible to apply for exclusion.

“(i) An offense for which the registrant successfully completed probation, provided that the registrant submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the registrant was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the registrant by the penis of the other or by any foreign object.

(ii) An offense for which the registrant is on probation at the time of his or her application, provided that the registrant submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the registrant was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the registrant by the penis of the other or by any foreign object.

If, subsequent to his or her application, the registrant commits a violation of probation resulting in his or her incarceration in county jail or state prison, his or her exclusion, or application for exclusion from the Internet Web site shall be terminated.”

If I am currently excluded from the Megan's Law website will I remain excluded?

Pursuant to amendments to Penal Code section 290.46 resulting from SB 384, registrants who were previously granted exclusion may no longer be eligible for exclusion. If the CA DOJ determines that a person who was granted an exclusion under a former version of Penal Code section 290.46(e) would not qualify for exclusion under Penal Code section 290.46(d) as amended under SB 384, the CA DOJ shall rescind the exclusion, make a reasonable effort to provide notification to registrant that the exclusion has been rescinded, and, no sooner than 30 days after notification is attempted, make information about the registrant available to the public on the Internet Web site as provided in Penal Code section 290.46(d) as amended under SB 384.

Petition for Termination of Sex Offender Registration Requirement

When and where do I petition for termination of my sex offender registration requirement in California?

On or after July 1, 2021, registrants who meet the mandated minimum requirements may petition the superior court or juvenile court in the county in which they reside.

The CA DOJ cannot provide legal assistance. If assistance is required, a registrant may contact the local public defender's office or a private attorney.



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An individual who is registering solely for a juvenile adjudication will petition the juvenile court. Any individual registering for an adult conviction of a sex offense, even if that person also registers for a juvenile adjudication, will petition the superior court.

Registrants must initiate the petition process by completing the petition forms, requesting proof of current registration from their individual registering law enforcement agencies, filing their petitions, and serving copies of their filed petitions on the required parties.

How can I have my registration terminated before January 1, 2021?

Until January 1, 2021, registrants remain subject to lifetime registration and must obtain a certificate of rehabilitation or gubernatorial pardon in order to be relieved of the requirement to register (Pen. Code § 290.5).

Where do I receive proof of current registration to attach to my petition?

The registrant's current registering law enforcement agency will provide the proof of current registration upon request from the registrant.

On whom do I serve my petition?

The petition is served on the registering law enforcement agency and the district attorney in the county where the petition is filed and on the law enforcement agency and the district attorney of the county of conviction of a registerable offense if different than the county where the petition is filed (Pen. Code § 290.5, as amended under SB 384).

Who grants or denies a petition for termination?

The superior court or juvenile court where the registrant filed their petition will be responsible for either granting or denying the petition for termination. For more information on the criteria used to grant or deny a petition, please refer to Penal Code section 290.5 as amended under SB 384.

If my petition for termination is denied following a court hearing, when can I re-petition for termination?

Pursuant to Penal Code section 290.5 as amended under SB 384, the court shall set the time period after which the person can re-petition for termination for tier one and tier two registrants who have met their mandated minimum registration periods, but whose petitions for termination were denied. The earliest re-petition date shall be at least one year from the date of the denial, but not to exceed five years, based on facts presented at the hearing. The court shall state on the record the reason for its determination setting the time period after which the person may re-petition.

A limited number tier two and tier three registrants, eligible to petition based on specified circumstances, may petition the court for termination of sex offender registration requirements (Pen. Code § 290.5(b)(1)-(b)(3) as amended under SB 384). If the petition is denied, these registrants will be eligible to re-petition from one to five or three to five years from the date of denial (Pen. Code § 290.5, as amended under SB 384).



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What will I receive from the court if my petition is granted?

Registrants will receive notice from the court whether their petition is granted or denied. Registrants should retain the court order for their own records.

How long will it take after my petition for termination is granted by the court for my registration requirement to be terminated by the CA DOJ?

The CA DOJ anticipates full termination from the registry after a petition is granted to take between 30-90 days. Please retain a copy of the court order granting your petition until you receive a letter from CA DOJ indicating your registration requirement has been fully terminated. Your requirement to register as a sex offender in California ends at the time the court grants your petition.

Can a tier three registrant petition for termination of their sex offender registration requirement?

If a tier three registrant is designated as tier three solely due to their risk level, which was well above average risk (formerly high risk) on the Static-99R, at least 20 years from release from custody on the registrant's registrable offense, the registrant may petition for termination of their sex offender registration requirement unless the conviction offense is listed in Penal Code sections 1192.7 or 288. The court shall determine, based on factors listed in Penal Code section 290.5 as amended under SB 384, whether community safety would be significantly enhanced by continued registration.

Individuals designated as tier three solely due to their risk level will be designated as Tier 3 – Risk Level by the CA DOJ.

If you are designated as Tier 3 – Lifetime, you may not petition for termination.

Whom may I contact for more information regarding how to file a petition for termination of my sex offender registration requirement?

Registrants may contact the local public defender's office or a private attorney. The CA DOJ cannot provide legal advice.

**California Department of Justice
Sex Offender Registry
SB384@doj.ca.gov**